IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5454 OF 2006

Shri Avinash Patil and Another .. Petitioners.

V/s.

1. The City & Industrial Development Corporation of Mah.Ltd. & Anr. .. Respondents.

Mr.Viraj V. Tulzapurkar, Sr.Counsel with Shri Prashant Jadhav for the Petitioners.

Mr.G.S.Hegde for the Respondent No.1.

Mr.R.D.Rane, GP for the Respondent No.2.

CORAM : F.I. REBELLO AND R.M. SAVANT, JJ.

DATED : 16TH MARCH, 2007.

P.C.:

. On behalf of the petitioners, the learned counsel states that the representation for an allotment of a plot, which was made on 20th July, 1992, must be considered in terms of the Government communication dated 12th September, 2001 and the Board Resolution No. 8459 of CIDCO.

2. Writ petition No. 145 of 2004 was filed before this court to which the petitioners herein were not

party. That petition was disposed of by order dated 29th April, 2004. In view of the statement made in the said petition about considering the petitioners' case, the petitioners filed a review petition being No. 1 of 2005, which came to be disposed of on 4th of March, 2005. The review petition was disposed of by the court by observing as under :

> . "Mr.Hedge, learned counsel appearing for the respondent No.1, on instructions stated that in the light of the observations of this Court in order dated 29.04.2004, as per the policy, the Petitioner, on the basis of the Project Report, is eligible for allotment of service industrial plot or built up premises in any of the designated area, considering their circulation. He further stated that the Board of Directors is empowered to approve the allotment as per the present policy and proposal will be submitted to the Board in the ensuing meeting and appropriate orders will be passed within a period of two months."

3. The petitioners thereafter moved for speaking to the minutes of the order dated 04.03.2005 on 09.08.2005. The court was pleased to dispose of the same by observing as under :

> . "By consent it is clarified that the allotment of service industrial plot may be decided on the basis of the representation already made by the petitioner and appropriate decision be taken within a period of three months from today in accordance with the existing policy of CIDCO".

4. On behalf of the petitioners, the learned counsel submitted that considering the representation made earlier which had to be considered, it could only be in terms of the government notification and resolution of Cidco, which we have referred to earlier and it cannot be as per the policy existing in the year 2005.

5. After having considered two orders, it is not possible for us to read existing policy of CIDCO to mean the policy as it earlier was existing when the petitioners applied and their case was considered. The contention of the petitioners, however, is that, that was the intention of the court. If that be so, it will be open to the petitioners to move the Board, which passed the order for whatever remedy they have.

6. With the above observation, the petition is disposed of. However, we make it clear that we have not disposed of the matter on merit and all issues are left open to be decided.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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